GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:1372
ANSWERED ON:03.03.2000
RECOVERY OF DEBT
RAMESH CHAND TOMAR;SHYAMA SINGH

Will the Minister of FINANCE be pleased to state:

(a) whether the Supreme Court has directed the Union Government to issue an Ordinance amending the Recovery of Debts Due to Banks and Financial institutions Act` 1993;

(b) if so the details of action taken by the Government on the basis of directives of the Supreme Court; and

(c) the details of more powers likely to be given to the Debt Recocery Tribunals for easy recovery of debts?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI BALASAHEB ViKHE PATH):

(a) to (c) In the matter of Delhi High Court Bar Association Vs. Union of India theDeihi High Court vide its order dated 10.3.1995 had declared the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (DRT Act) as unconstitutional and voidinter alia on the grounds that the Act does not contain provision for set off, counter claim or transfer of cases from one tribunal to another. Government filed an SLP in theSupreme Court and the Supreme Court stayed he operation ot the order of Delhi High CourtDuring various hearings of the case before the Supreme Court`one major observation made bythe court pertained to carry out necessary amendments to DRT Act. Reserve Bank of India also set up a Working Group to suggest changes in the Act to make it more effective. Based on observations of the Supreme Court, recommendations made by RBI Working GroupRajya Sabha Committee on Subordinate Legislation the Act has been amended suitably throughan Ordinance dated 17.1.2000. Some of these amendments are as under:â€”

(1) set-off and counter-claims, appointment of Receivers and Commissioners by the Tribunal, transfer of cases from one Tribunal to anotherand appointment of more than one Recovery Officer in a Tribunal;

(2) empowering the Tribunals to issue certificate for recovery of enhanced or reduced amount on the basis of the final order of the Appellate Tribunal;

(3) empowering the Chairperson of the Appellate Tribunal to appraise the work of Presiding Officers of Tribunals and discharge functions of the Chairperson of another Appellate Tribunal;

(4) the transfer of recovery certificate from one Tribunal to another Tribunal to facilitate recovery;

(5) empowering the Tribunals to distribute sale proceeds among the secured creditors in accordance with the provisions of section 529 of the Companies Act.